

2014 Elk River, West Virginia Chemical Spill Superfund Division Briefing Paper

Superfund Emergency Response:

- During the response, Region 5 mobilized an OSC to coordinate and communicate analytical information regarding the MCHM plume in the Ohio River. Regions 4, 5 and ORSANCO, in coordination with public water facilities, tracked the plume until it was no longer detectable.
- For response purposes, EPA responded to the spill as a “pollutant or contaminant” under CERCLA. However, because MCHM is not considered a hazardous substance under CERCLA, EPA does not have the ability to issue a UAO under the statute. MCHM is not considered an oil under OPA.
- EPA Region 3 continues its sampling, monitoring, and oversight of cleanup at the Freedom Industries site. West Virginia DEP continues to be the lead enforcement agency. Region 5 continues to communicate with Region 3 regarding lessons learned from the Elk River spill.
- One key lesson learned: EPA should look to develop enforcement tools for emergency response similar to those used under OPA (Notice of Federal Interest/Assumption forms, field orders) to put a facility immediately on notice regarding potential liability and to order action, if appropriate.

Superfund Enforcement-CEPPS:

- Under EPCRA, MCMH and PPH storage are not directly reported to EPA. Under SPCC, oil storage is not reported to EPA. However, CEPPS can target geographic (Ohio River border) and/or sector-based inspections, or request specific facility information under both statutes. Pending next steps, CEPPS may consult SERCs and other resources to propose inspection targets.
- There are 4 Ohio chemical companies that have reported MCMH above 10,000 lbs on their Tier II (Ohio EPCRA reporting) forms. They are located in Hamilton, Huron (Akzo Nobel Painting appears to be near Lake Erie), Strongsville and Walbridge.